

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of PACIFIC GAS AND ELECTRIC COMPANY to Establish Market Values for and to Sell its Richmond-to-Pittsburg Fuel Oil Pipeline and Hercules Pump Station Pursuant to Public Utilities Code Sections 367(b) and 851. (U 39 M)

Application 00-05-035
(Filed May 15, 2000)

Application of SAN PABLO BAY PIPELINE COMPANY to Own and Operate the Richmond-to-Pittsburg Fuel Oil Pipeline and Hercules Pump Station as a Common Carrier Pipeline Corporation Pursuant to the Provisions of Public Utilities Code Sections 216 and 228. (U 39 M)

Application 00-12-008
(Filed December 12, 2000)

**ADMINISTRATIVE LAW JUDGE'S RULING
DENYING REQUEST FOR EVIDENTIARY HEARING**

On June 24, 2004, Chevron U.S.A. Inc. (Chevron) filed a protest to the First Amendment to Application (A.) 00-05-035 and A.00-12-008 filed on May 6, 2004. Chevron argues that the Application is incomplete, does not discuss how the Richmond to Pittsburg Pipeline can be operated as a public utility, and fails to meet the proper environmental standards both under the California Environmental Quality Act (CEQA) and this Commission's regulations.

Chevron requests that the Commission either (1) dismiss the Application without prejudice to refile on the grounds that neither the Application nor the Supplement to the Proponents Environmental Assessment (PEA) provide a basis on which the Commission can make a determination, or (2) set the matter for

hearing, require Applicants to address the deficiencies raised in Chevron's Protest, and provide other parties including Chevron, with a full opportunity to present a case in evidentiary hearings.

On July 20, 2004, Pacific Gas and Electric Company, San Pablo Bay Pipeline Company LLC, Santa Clara Valley Housing Group, and Shell Pipeline Company LP (collectively, the Applicants) filed a reply to Chevron's protest. Applicants argue that evidentiary hearings are not needed or justified because Chevron raises only environmental concerns that can be addressed during the CEQA process. According to Applicants, the Final Mitigated Negative Declaration (FMND) issued on April 23, 2002, already addresses all issues raised in Chevron's protest other than those that are the subject of the supplemental CEQA review.

Discussion

Chevron's request for evidentiary hearings is premature. As the parties are aware, the supplemental CEQA review is in progress. Staff is evaluating the applicant's revised application and PEA for deficiencies consistent with General Order 131-D. Staff will ensure any deficiencies are remedied in order to proceed with the next phase of environmental review. Further, it can be expected that the additional environmental review that is now being conducted will encompass the expanded intended use of the pipeline facilities. When the resulting environmental document is issued for public review, all parties including Chevron will have an opportunity to comment and the Commission will respond to those comments.

Further, the April 23, 2002 FMND states that "[t]he proposed project, which is the subject of this environmental documentation, is the approval of PG&E's Section 851 application," and San Pablo Bay Pipeline Company LLC's

request for approval under Public Utilities Code Sections 216 and 228 to own and operate the pipeline and pump station as a common carrier.¹ Thus, we expect that Chevron's CEQA concerns, if not addressed in the original FMND, should be addressed in the forthcoming supplemental environmental review.

Chevron's pleadings² suggest that there may be issues outside of CEQA that need to be addressed more fully. For example, pursuant to Section 851, Chevron seeks more information to establish that the proposed sale is in the public interest. Chevron wants more information on the intended business purpose, and how the pipeline can be operated as a public utility. CEQA does not explore these issues.

To the extent that all issues of concern are not addressed in the final CEQA document, the Commission will need to develop a record either through information filings or limited evidentiary hearings. However, it would not be an efficient use of the Commission's time to hold evidentiary hearings prior to issuance of the final CEQA document.

¹ FMND Master Response 2, at p. 5-5.

² Chevron filed a reply dated August 4, 2004.

Therefore, **IT IS RULED** that after the final environmental document is issued for comment,³ a prehearing conference shall be scheduled to determine the issues that remain to be addressed. At that time, Chevron may renew its request for an evidentiary hearing on issues of concern not covered by the CEQA review. In the meantime, Chevron's request for an evidentiary hearing at this time, should be denied.

Dated August 10, 2004, at San Francisco, California.

/s/ BERTRAM D. PATRICK

Bertram D. Patrick
Administrative Law Judge

³ The Commission staff estimates that a draft final environmental document will not be available until March 2005, at the earliest. A better estimate will be available in September 2004, after the staff completes the initial study to determine whether an Environmental Impact Report or a Mitigated Negative Declaration is required.

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling Denying Request for Evidentiary Hearing on all parties of record in this proceeding or their attorneys of record.

Dated August 10, 2004, at San Francisco, California.

/s/ FANNIE SID

Fannie Sid

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.